

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AL GAYOSO,

ANSWER  
Plaintiff(s),

-against-

Index No: 08 CV 1624  
File No: 2008-005835

THE CITY OF NEW YORK,

Defendant(s).  
-----x

Defendant THE CITY OF NEW YORK, by MICHAEL A. CARDOZO,  
Corporation Counsel, answering the complaint, allege upon information and belief:

1. Denies each allegation set forth in paragraph 1 of the complaint except admits that the City of New York is a municipal corporation.
2. Admit the allegations set forth in paragraph 2 of the complaint.
3. Admit the allegations set forth in paragraph 3 of the complaint.
4. Admit the allegations set forth in paragraph 4 of the complaint.
5. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations set forth in paragraph 5 of the complaint, except admit that plaintiff has, at some time, been employed by the City of New York.
6. Deny each allegation set forth in paragraph 6 of the complaint.
7. Deny each allegation set forth in paragraph 7 of the complaint
8. Deny each allegation set forth in paragraph 8 of the complaint.
9. Deny each allegation set forth in paragraph 9 of the complaint, except as otherwise alleged herein.

10. Deny each allegation set forth in paragraph 10 of the complaint.

**AFFIRMATIVE DEFENSE(S)**

11. Plaintiff fails to state a claim upon which relief can be granted.

12. Plaintiff(s)' culpable conduct caused or contributed, in whole or in part, to his injuries and or damages.

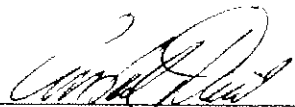
13. Plaintiff has failed to mitigate the injuries and/or damages alleged to have been sustained by plaintiff.

14. Where plaintiff seeks to recover damages pursuant to this action, any such costs or expenses from any collateral source shall reduce any judgment rendered in favor of plaintiff as against defendant.

**WHEREFORE**, defendant demands judgment dismissing the complaint and all cross-claims against them, or, in the event that they are adjudged liable, granting judgment over, or apportioning such liability in accordance with their equitable shares of responsibility, and awarding the costs of this action, together with such other and further relief as to the court may seem just.

Dated: New York, New York  
March 13, 2008

By:

  
\_\_\_\_\_  
Anshel David (AD4295)  
Assistant Corporation Counsel  
(212) 788-0602

MICHAEL A. CARDOZO  
Corporation Counsel  
City of New York  
100 Church Street  
New York, New York 10007

TO: Bernard D. Friedman, Esq.  
Friedman, James & Buchsbaum, LLP  
Attorneys for Plaintiff  
132 Nassau Street, Suite 900  
New York, NY 10038

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## ANSWER

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MICHAEL A. CARDOZO  
Corporation Counsel  
Attorney for Defendant  
THE CITY OF NEW YORK,  
By: Anshel David  
100 Church Street, Rm.: 4-204  
New York, New York 10007  
Tel. #: (212) 788-0602

Please refer to the following file number: **2008-005835**  
and indicate the County in which the action is pending in all papers,  
correspondence and other communications with respect thereto.